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GOVERNMENT OF TAMIL NADU
2022

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No. 127] CHENNAI, FRIDAY, FEBRUARY 25, 2022
Maasi 13, Pilava, Thiruvalluvar Aandu-2053

Part V—Section 4

Notifications by the Election Commission of India

NOTIFICATIONS BY THE ELECTION COMMISSION OF INDIA

Judgement of the High Court of Madras in Election Petition No.13 of 2021

No. SRO G-2/2022.

The following Notification of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 18th February, 2022 [29 Magha, 1943 (Saka)] is published:-

No.82/TN-LA/13/2021:- In pursuance of section 106 (b) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Order dated 14.12.2021 of the High Court of Madras in Election Petition No. 13 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Ordinary Original Civil Jurisdiction)

TUESDAY, THE 14th DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Election Petition No.13 of 2021

ELP No.13 of 2021

Thiru.K.Raghul Gandhi,
S/o. P. Krishnan,
No.14, Central Excise Colony,
Near Thendral Nagar,
PN Pudur,
Coimbatore – 641 041—*Petitioner*

Verses-

1. Mrs. Vanathi Srinivasan,
W/o. Srinivasan,
Sree Vatsa Shiva Apartment,
304, Fourth Floor,
Dr. Rajendra Prasath Road,
Tatabad, Coimbatore – 641 012.
2. The Returning Officer,
120 – Coimbatore South Assembly Constituency and
Assistant Commissioner (Central Zone),
Coimbatore Corporation,
Coimbatore.
3. The District Collector,
O/o. the District Collector,
Coimbatore.
4. The Chief Electoral Officer,
Public (Elections) Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
5. The Chief Election Commissioner of India,
O/o. the Chief Election Commissioner of India,
Nirvachan Sadan,
Ashoka Road,
New Delhi.— *Respondents*

The Election Petition praying that this Hon'ble Court be pleased to

(a) the victory of the 1st Respondent from 120 – Coimbatore South
Assembly Constituency of Tamil Nadu Legislative Assembly be declared void and set

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 3

aside (b) the 1st Respondent to be declared to be disqualified from contesting the elections (c) the votes to be re-counted as per the petition given by the Petitioner to the Returning Officer, the 2nd Respondent herein (d) allow the cost of this petition to the Petitioner.

The above Election Petition coming on this day before this court for hearing in the presence of Mr.U.Gokulakrishnan, Advocate for the Election Petitioner herein; and upon reading the Petition and affidavit of K. Raghul Gandhi filed herein and this court is of the considered view that these vague allegations are not sufficient to try the election petition and hence this court having found that no merit in the election petition and hence this petition is liable to be rejected and

It is ordered:-

That the Election Petition No.13 of 2021 be and is hereby dismissed.

WITNESS, THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID THIS THE
14TH DAY OF DECEMBER 2021.

SD./-

ASSISTANT REGISTRAR

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DATED AT MADRAS THIS THE 21ST DAY OF JANUARY 2022

COURT OFFICER (O.S)

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Pk-20/01/2022

ELP.No.13 of 2021

DECREE

DATED:14/12/2021

THE HON'BLE MR.JUSTICE
V. BHARATHIDASAN

FOR APPROVAL: 20/01/2022

APPROVED ON: 20/01/2022

Copy to:-

1. The Chief Electoral Officer,
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Chennai – 600 009.
2. The Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi – 110 001.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Ordinary Original Civil Jurisdiction)

TUESDAY, THE 14TH DAY OF DECEMBER 2021

THE HON'BLE MR.JUSTICE BHARATHIDASAN

ELECTION PETITION No.13 OF 2021

ELP No.13 OF 2021

Thiru.K.Raghul Gandhi,
S/o. P. Krishnan,
No.14, Central Excise Colony,
Near Thendarl Nagar,
PN Pudur,
Coimbatore – 641 041—*Petitioner*

Vs

1. Mrs. Vanathi Srinivasan,
W/o. Srinivasan,
Sree Vatsa Shiva Apartment,
304, Fourth Floor,
Dr. Rajendra Prasath Road,
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Chennai – 600 009.
5. The Chief Election Commissioner of India,
O/o. the Chief Election Commissioner of India,
Nirvachan Sadan,
Ashoka Road,
New Delhi.— *Respondents*

The Election Petition praying that this Hon'ble Court be pleased to (a) the victory of the 1st Respondent from 120 – Coimbatore South Assembly Constituency of Tamil Nadu Legislative Assembly be declared void and set aside (b) the 1st Respondent to be declared to be disqualified from contesting the elections (c) the votes to be re-counted as per the petition given by the Petitioner to the Returning Officer, the 2nd Respondent herein (d) allow the cost of this petition to the Petitioner.

The above Election Petition coming on this day before this court for hearing in the presence of Mr.U.Gokulakrishnan, Advocate for the Election Petitioner herein; and upon reading the Petition and affidavit of K. Raghul Gandhi filed herein and **the court made the following order:-**

Challenging the election of the first respondent in the 120 Coimbatore South Assembly Constituency, the petitioner, who claims to be a South Zone Leader in Hindustan Janta Party and contested in the election and lost, filed the Election Petition.

2. The main allegations made in the election petition is that the returned candidate, namely, first respondent, secured 53,209 votes and the second highest vote was 51,481/- and the first respondent was declared as elected. According to the petitioner, so many Electronic Voting Machines (EVMs) were hacked and the votes polled in favour of the petitioner were converted in favour of the returned candidate. That apart, 629 postal votes have been rejected by the Returning Officer without any re-verification. The Returning Officer also failed to secure the signature from the candidates counting agents after each round of counting the postal votes. Hence, the present petition.

3. The learned counsel would submit that, earlier the petitioner has contested as independent candidate in various local body election as well as the Assembly and Parliament election. In the election to the Coimbatore Municipal Corporation, he has secured more than 2000 votes and in Wayanad Lok Sabha election held in the year 2019, he secured 845 votes, in Singanallur Legislative Assembly election held in the year 2016, he had secured 332 votes. But, in the present election, he has secured only 73 votes and hence, he suspect some foul play in the election. The petitioner reliably understand that, many of the Electronic Voting Machines (EVMs) were hacked by the first respondent and it materially affected the election. The learned counsel further submitted that while counting, the postal votes, nearly 629 postal votes have been rejected without re-verification, which is also materially affected the election.

4. This Court considered the submissions made by the learned counsel for the petitioner and perused the materials available on records carefully.

5. The election petition is a serious matter and it cannot be treated lightly or in a fanciful manner and it cannot be used as a handle for vexatious purpose. The person who challenges the election in an election petition should plead and state all the material facts in the election petition for the purpose of formulating a complete cause of action, if any one of the material facts is omitted, the election petition is liable to be rejected. All the facts which are essential to cloth the petition with complete cause of action must be pleaded and failure to plead even a single material fact will violate the mandate of Section 83(1) (a) of the Representation of the People Act, 1951 and the election petition must be dismissed for want of cause of action. It is also well settled that a election petition can be summarily dismissed if it does not furnish the cause of action.

6. In the instant case, the election petition has been filed with vague allegations without even disclosing the material facts which are essential to set aside the election. Vague allegations that Electronic Voting Machines (EVMs) have been hacked and postal ballots have been rejected without any details are not sufficient to go for a trial.

7. That apart, the contention of the election petitioner that he has got less votes than the votes obtained in the previous election itself is not a ground to set aside the election. In the above circumstances, the petitioner miserably failed to state any material facts in the election petition and he does not furnish the cause of action to maintain the election petition.

8. In the above circumstances, this Court is of the considered view that these vague allegations are not sufficient to try the election petition. Hence, this Court find no merit in the election petition and hence this election petition is liable to be rejected in limine and accordingly this election petition is dismissed.

WITNESS, THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID THIS THE
14TH DAY OF DECEMBER 2021.

SD./-

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 7

Pk-20/01/2022

ELP.No.13 OF 2021

ORDER

DATED: 14/12/2021

THE HON'BLE MR.JUSTICE
V. BHARATHIDASAN

FOR APPROVAL: 20/01/2022

APPROVED ON: 20/01/2022

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Chennai – 600 009.
2. The Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi – 110 001.

(By Order)

MALAY MALLICK,
Principal Secretary,
Election Commission of India.

Secretariat,
Chennai-600 009,
25th February, 2022.

SATYABRATA SAHOO,
Chief Electoral Officer and
Principal Secretary to Government,
Public (Elections) Department.